



UNITED STATES  
CIVILIAN BOARD OF CONTRACT APPEALS

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GRANTED IN PART: December 13, 2016

CBCA 5542

THE DOW CHEMICAL COMPANY AND THE BOEING COMPANY,

Appellants,

v.

DEPARTMENT OF ENERGY,

Respondent.

Scott M. McCaleb, Jon W. Burd, and Gary S. Ward of Wiley Rein LLP, Washington, DC, counsel for Appellant.

Stephen C. Skubel, Office of the General Counsel, Department of Energy, Washington, DC; and Mell Roy, Office of Chief Counsel, Department of Energy, Cincinnati, OH, counsel for Respondent.

Before Board Judges **SULLIVAN**, **O'ROURKE**, and **BEARDSLEY**.

**SULLIVAN**, Board Judge.

On December 9, 2016, the parties submitted to the Board executed copies of a joint stipulation of settlement and joint motion for consent judgment. The parties requested that the Board enter judgment in the amount of \$131,250,000 for The Dow Chemical Company (Dow) and \$243,750,000 for the Boeing Company (Boeing), with payment to be made through the permanent indefinite judgment fund in accordance with 31 U.S.C. § 1304 (2012). Rule 25(b) (48 CFR 6101.25(b) (2015)).

The parties also agreed that if the payments are made by July 28, 2017, no interest will be paid. The parties have agreed that they will not seek appeal of, reconsideration of, or relief from, the Board's decision.

Decision

The Board **GRANTS IN PART** the appeal. Dow shall be paid \$131,250,000, and Boeing shall be paid \$243,750,000. Rule 25(b). If payment is not made by July 28, 2017, interest shall also be paid on the principal amounts, running from that date until the date of payments at rates prescribed by the Secretary of the Treasury pursuant to 41 U.S.C. § 7109 (b). Payment may be made from the permanent indefinite judgment fund. 31 U.S.C. § 1304.

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MARIAN E. SULLIVAN  
Board Judge

We concur:

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KATHLEEN J. O'ROURKE  
Board Judge

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ERICA S. BEARDSLEY  
Board Judge